



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

ELP
Docket No. 5398-01
5 October 2001



Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Navy Records, sitting in executive session, considered your application on 3 October 2001. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Marine Corps on 12 August 1982 for four years at age 18. The record reflects that you were advanced to PFC (E-2) and served without incident until February 1983, when you received nonjudicial punishment (NJP) for absence from your appointed place of duty. Thereafter, you were formally counseled regarding the absence and insubordination and were warned that failure to take correction could result in administrative separation.

The record further reflects that you were advanced to LCPL (E-3) and served for the next 15 months without incident. During the 12 month period from January to December 1985, you received four more nonjudicial punishments (NJP). Your offenses consisted of two instances of absence from your appointed place of duty, failure to obey a lawful order, an eight day period of unauthorized absence (UA), and writing an unspecified number of bad checks totaling \$659.

On 26 February 1986 the company commanding officer recommended that you be administratively separated. On 24 April 1986 you were notified by the battalion commander that you were being recommended for discharge by reason of misconduct due to a

pattern of misconduct. You were advised of your procedural rights and told that if discharge was approved it could be under other than honorable conditions. You declined to consult with legal counsel or submit a statement in your own behalf, and waived the right to present your case to an administrative discharge board (ADB). Thereafter the commanding officer recommended discharge under other than honorable conditions. On 13 May 1986 the discharge authority directed discharge under other than honorable conditions by reason of misconduct due to a pattern of misconduct. You were so discharged on 28 May 1986.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, your regret for the actions which led to your discharge, that you were within three months of completing your enlistment, letters of reference, and the fact that it has been more than 15 years since you were discharged. The Board concluded that these factors were insufficient to warrant recharacterization of your discharge given your record of five NJPs, two of which were for multiple bad check offenses. The Board noted the aggravating factors that you failed to learn from your disciplinary experiences and you waived an ADB, the one opportunity to show why you should be retained or discharged under honorable conditions. Your good post-service adjustment is commendable but is insufficient to warrant recharacterization of your service. The Board concluded that the discharge was proper and no change is warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director